

### C. REMARKS

Claims 1-15 and 18-25 have been rejected under 35 U.S.C. § 103 as being unpatentable over U.S. Patent No. 7,177,833 to *Marynowski et al.* in view of U.S. Patent No. 6,508,709 to *Karmarkar*; claim 16 has been rejected under 35 U.S.C. § 103 as being unpatentable over U.S. Patent No. 7,177,833 to *Marynowski et al.* in view of U.S. Patent No. 6,508,709 to *Karmarkar et al.* in further view of U.S. Patent Publication No. 2002/0032632 to *Serne*; claim 17 has been rejected under 35 U.S.C. § 103 as being unpatentable over U.S. Patent No. 7,177,833 to *Marynowski et al.* in view of U.S. Patent No. 6,508,709 to *Karmarkar et al.* in further view of U.S. Patent No. 7,062,460 to *Growney et al.*

The present invention is particularly directed to “commodities trading simulation” on a computer. A computer is accessible by a plurality of players over a computer network. A database accessible by the computer contains a plurality of player files associated with players of the system; each player file contains a player portfolio associated with a specific player including commodities and units thereof and a money value. The player files further contain a player score determined by the computer based on the player portfolio. A database accessible by the computer contains a plurality of indications submitted by players; each of the indications relates to a bid or offer for a specified number of units of a specified commodity at a specified unit price. An indication can be selected by a player submitted by the player. The computer receives the selected indication from the player, retrieves a player portfolio from the player database corresponding to the player, updates the listing of commodities and units in the retrieved player portfolio to reflect the selected indication, updates the money value in the retrieved player portfolio to reflect the selected indication, and removes the selected indication from said indication database. The computer retrieves game-ending criteria, ceasing further game play when the game-ending criteria are met, retrieving scoring criteria, retrieving the player portfolio, determining a player score based on the player portfolio, and determining a winner based on player scores.

U.S. Patent No. 7,177,833 to *Marynowski et al.* (“*Marynowski*”) describes an electronic exchange system network including a trader site having an automated trading system capable of submitting orders and/or quotes to an exchange. The automated trading system determines

whether an order or quote should be submitted based on the current market price of an option and theoretical buy and sell prices. The theoretical buy and sell prices are derived from, among other things, the current market price of the security underlying the option. “[T]he automated trading system automatically decides whether or not to submit an order or quote based on calculation logic and decisional logic, and trading information received from the exchange computers.” Column 3, lines 46-50. Thus, *Marynowski* is concerned with the fully automatic trading based on calculated values; *Marynowski* doesn’t need a trader, let alone a “player” of the presently claimed invention.

In more detail, despite the fact that *Marynowski* doesn’t need a trader, let alone a “player” of the presently claimed invention the Office Action argues the existence of “retrieving game ending criteria”. The Office Action generically cites to “the Background of the Invention under ‘2. Description of the Related Art and figure 5” for this proposition. With respect to the citation to the Background of the Invention, this is respectfully traversed as a careful reading of this section demonstrates no remote reference to “retrieving game ending criteria”.

Figure 5 shows “a flow diagram of the steps performed in automatic trading in accordance with the present invention.” Column 3, lines 27-28. The steps 1-16 simply diagram a single automated trade from start to completion; the additional lines on the graph simply show steps 1-8 of a subsequent automated trade. Thus, Figure 5 in no way supports the proposition of “retrieving game ending criteria”.

Even if any “winner” was determined in *Marynowski*, which they are not, the winner would be the computer calculation logic and decisional logic.

For all these reasons, the rejection of the claims should be withdrawn.

In any event, *Marynowski* was filed as U.S. Patent Application No. 09/618,222 on 18 July 2000; the present application was filed on 18 January 2001 based on U.S. Provisional Patent Application Ser. No. 60/176,503 filed 18 January 2000, six months prior to *Marynowski*. U.S. Provisional Patent Application Ser. No. 60/176,503 described a computerized trading simulation over the Internet. Thus, *Marynowski* is predated by the Provisional filing on which the present application is based.

Still further, the Office Action acknowledges that lacks any reference, teaching or suggestion of “the act of determining a winner based on said player scores”, but cites to U.S. Patent No. 6,508,709 to *Karmarkar et al.* in attempting to overcome this failure. U.S. Patent No. 6,508,709 to *Karmarkar* (“*Karmarkar*”) describes a virtual distributed multimedia gaming method and system based on actual regulated casino games. Virtual gaming is provided using live multimedia video or restricted pre-recorded video from casino games. The multimedia video depicts a number of various legally-authorized live casino games. An accounting subsystem manages the compensation, credit accounts, and authentication for a remote player. A communication distribution hub connects the multimedia video source and the player accounting subsystem to a remote player station. The remote player station provides gaming information to enable the remote player to receive a payout. Simplified wagering rules enable the remote player to bet either for or against the actual player.

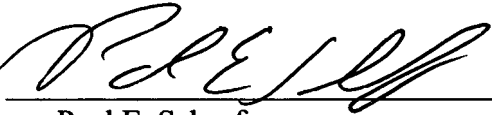
Initially, it simply defies logic to combine a commodities trading simulation with a virtual gaming system that enables a remote player to bet either for or against an actual player. The commodities markets play a vital role in price determination, liquidity, transparency, etc. in our economy; while it may provide entertainment, gambling provides no such economic benefits. Moreover, even in the context of gambling, *Karmarkar* does not determine a winner; *Karmarkar* provides an actual payout. Indeed, the referred to column 12, lines 47-48 of *Karmarkar* merely shows what the gambler’s balance is: “a display area 252 displays the player credit balance of \$XXXX.”

Therefore, it is respectfully submitted that all of the claims recite patentable subject matter and are in condition for allowance. Accordingly, favorable consideration and allowance of the application is respectfully requested.

Respectfully submitted,

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